

**BRIGHAM CITY APPEAL AUTHORITY  
MARCH 14, 2007 – MEETING MINUTES**

<b>PRESENT:</b>	George Berkley Martha Shoun Don Peart Jaye Poelman	Chairman Vice Chairman Board Member Alternate
<b>ALSO PRESENT:</b>	Jeff Leishman	Associate Planner
<b>EXCUSED:</b>	Marilyn Peterson Jess Palmer	Board Member Alternate

**AGENDA:**

1. APPROVAL OF THE FEBRUARY 14, 2007 MEETING MINUTES
2. APPLICATION #607 / VARIANCE / 815 NORTH 100 EAST / JOHNNY HULSE

Meeting convened at 5:40 p.m.

**Approval of Agenda:**

**Motion:** A motion was made by Martha Shoun to approve the agenda. The motion was seconded by Don Peart and the motion passed unanimously.

**Approval of Minutes:**

**Motion:** A motion was made by Don Peart to revise the minutes of the February 14, 2007 meeting to add Jess Palmer as being present at the meeting. The motion was seconded by Martha Shoun.

On line 139, after 'replied,' add 'as an example' and strike 'that'. On line 142, after 'the basis, in this instance, is the lot area' add 'of the agricultural\farmling operation.' and strike 'so' and capitalize 'The' to start the next sentence.

**Motion:** A motion was made by Martha Shoun to accept the changes to the minutes in lines 139 and 142 as stated by Mr. Leishman. The motion was seconded by Jaye Poelman and passed unanimously.

**Motion:** A motion was made by Don Peart to accept the minutes of the February 14, 2007 meeting, as clarified. The motion was seconded by Martha Shoun and the motion passed unanimously.

**Application #607** - Variance / 815 North 100 East / Johnny Hulse

Lee Watkins, Hansen & Associates, and Johnny Hulse, applicant, came forward. Mr. Berkley asked if they were familiar with how the Appeal Authority functioned and their options if the application is approved or disapproved; both gentlemen said they were. Mr. Berkley explained to the applicant that the board is made up of five members and in order to pass, the application must have the approval of at least three board members. As only four members are present at this meeting, the applicant was asked if he would like to have this continued until there is a full board or if he would like to proceed. Mr. Watkins stated that he would like to proceed.

Mr. Leishman explained that this is a P.U.D. (planned unit development) Subdivision and has

been before the Planning Commission. This project is across the street from Foothill Elementary and directly south of the old Hansen Chevrolet car dealership. The property goes from 100 East to Main Street. There are six town house style structures, which are positioned against the north property line. They have more than the required 2-stall minimum for parking per unit. There is a driveway along the south property line which will access the individual stalls. Mr. Leishman referred the board to a copy of the new parking standards. In section 29.05.100 Parking and Parking Lot Access, paragraph B, it states the standards for the width, radius, location and number of curb cuts for all uses except single family or two family dwellings. Using a map, he pointed out the problem area with this proposed development. The separation from side-rear property lines is 20-feet. The driveway approach that comes out onto 100 East, by this Ordinance, is required to be 20-feet away from a side property line. The project design and lot width does not lend itself to an approach that is located near the center of the lot, as required by Ordinance. The Ordinance is mainly designed for commercial and industrial uses. The majority of residential uses, in this district, have approaches positioned similar to the request. Darin McFarland, Brigham City Street Superintendent, recommends approval of the variance. If the south adjacent property is developed in an alternate manner, then Mr. Hulse and the adjoining property owner could consider a shared approach that would reduce points of conflict. With the new Ordinance, Staff encourages joint approaches. Mr. Nelson is supportive of the applicant. The project came to Staff with a 3-foot separation between the south extended property line and the approach. The original document stated it would be 3-feet away. The revised plan states that it will be 4-feet away. The City is asking that the approach be 5-feet away from the extended property line so the 5-foot radius can terminate at the extended property line. That would enable the adjoining property owner to attach to that and do the same thing if an approach next to the property line is ever desired. There are two types of curb approaches; one is a 5-foot radius and the other is a dip-back with a 2.5-foot radius.

Mr. Berkley ask Mr. Watkins if he saw a problem in changing that so the 5-foot radius ends up at the extension of the property line. Mr. Watkins stated that they are willing to move that a foot but it will cause a small problem in the drive isle. They cannot move the parking lot a foot because of some site construction with some columns but could move the approach.

Mr. Leishman stated that the difficulty is the narrowness of the lot. They could certainly have the approach in the center of the property and there could be parking down the south side but that would mean all the pedestrians would have to walk through the drive as they go to or get out of their vehicles, which would create more of a safety issue than is normally seen. Due to the narrowness of the lot and the safety concerns, it is probably not advisable to place the parking along the south property line.

The Ordinance was designed and tailored for commercial industrial development. In residential areas many of the driveways are close to the side property line and the majority of them are not 20-feet away.

There has been no feedback from the neighbor notification other than Mr. Rulon Nelson.

Included in the application was Hansen & Associates attempt to identify and satisfy the requirements of the five criteria established by the Appeal Authority in order to grant the variance.

Mr. Watkins read, for the record, the requirements and his response to those requirements:

- 1) Literal enforcement of the Zoning Ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Zoning Ordinance.
  - i) In order to comply with the Ordinance, the driveway would have to be placed on the opposite side of the parking lot. This would place the residents' parking spaces across from the drive isle and cause them to cross that drive isle to get to and from their homes.
- 2) There are special circumstances attached to the property that do not generally apply to other properties in the same district.

- ii) Other properties that do not have site geometric issues associated with this property would be able to adjust their associated site plans to better meet the Ordinance while still providing normal access to the units.
- 3) Granting the variance is essential to the enjoyment of a substantial property right possessed by other property owners in the same district.
  - iii) As stated in response (i) above, it is highly irregular to place residential parking so far away from the units that they serve, thus creating an unusual and unpleasant living environment.
- 4) The variance will not substantially affect the General Plan and will not be contrary to the public interest.
  - iv) The general public would not likely notice the variance, as it is common to see drive approaches close to the adjacent properties. Also, since the adjacent property to the south accesses at the same property line, the variance is more legitimate and natural.
- 5) The spirit of the Zoning Ordinance is observed and substantial justice done.
  - v) The spirit of the Zoning Ordinance is not compromised with this variance for two reasons. First, there are no good alternatives to the problem. Second, the location of the access point to the south is in harmony with the proposed access and will appear to support the intent of the Code.

Mr. Leishman stated that on the ownership plat there is a significant amount of property that is in another lot within the subdivision that is being proposed. He asked if it would be advisable to have one of the conditions be that this driveway not extend into any commercial development so they will not have a lot of traffic passing through. If the west half is approved or developed in the future as town houses also, than it may be fine to have this driveway extend out. Staff asked that the neighbors not be impacted by this and if it could be a point of consideration that this driveway/approach will not serve a commercial development on the west.

Mr. Watkins said that when they originally laid out the plans, they laid it out so that the two developments connect because they thought it would get better traffic circulation. Mr. Hulse decided that he does not want the co-mingling of traffic and does not want the town homes to access Main Street directly. He does not want the possible future office area accessing his drive. It is unlikely that would happen but that is the reason they designed a curb at that particular location. There is a landscape strip between the curb and the property line. If in the future, Mr. Hulse wanted to connect that in, he would have to come back to the HOA (home owners association) in order to make that connection. Mr. Leishman said that would have to come back to the City if that was part of the motion. If there was a substantial development there, the concern would be how it would impact the neighbors. Mr. Berkley stated that would need to be stipulated in the motion if they wanted it to be capped off without coming back to the City again.

**Motion:** A motion was made by Don Peart to approve the variance as stated for the fact: Literal enforcement of the Zoning Ordinance would be unreasonable for the safety factor of residents having to walk through the drive strip if the parking spaces were reversed rather than leaving it the way it is. That would be a hardship in that it is better suited this way, for safety reasons. Also it is involved in the special circumstances of the property in the way it is situated. It is better situated this way; plus it is set up, as in number three, granting the variance is essential to the enjoyment of the property as possessed by other property owners, this being primarily a residential circumstance. It is much like the other residential properties in the area. The variance will not substantially affect the General Plan. It will not be contrary to the public interest. The spirit of the Zoning Ordinance is observed and it would be the proper thing to do. Also to include that this be used primarily for the residential property, in that it does about the possible development of the commercial property to the west that it be as it is designed, cut off from that commercial property where there is no thru

traffic to any development on the west. Also, that the entrance on the east side be adjusted 1-foot to the north so that it comes out where it is extended out to the street; that it is the same to the other property line.

Mr. Leishman clarified that the standard is a 20-foot separation; a 15-foot variance is being granted or the approach would have to be 5-feet away from the south extended property line. Mr. Peart agreed with the clarification.

Martha Shoun seconded the motion.

**Discussion:** Ms. Shoun stated that the motion needed to include a statement to the fact that if and when the property to the west is developed as commercial, that there be a 20-foot... Mr. Peart commented that he thought in the motion it was proposed that it be cut off so there was no access through. Ms. Shoun said it needed to be stated that the 20-foot variance needs to be between the end of the property line on the east and when it is developed on the west. It was asked that Ms. Shoun show the group, on the map, what she meant. Mr. Berkley said there is no requirement if this gets developed as commercial that it would need to be back 20-feet from the property line. Mr. Leishman clarified that they were only talking about the approach on the east. There is not a problem at the west end. Mr. Leishman clarified that the approach, by ordinance, has to be 20-feet away from the extended property line. The board is proposing to grant a 15-foot variance so the approach is 5-feet away from the extended south property line. Mr. Peart stated that he did include, as part of the motion, that that area be restricted so there is no thru traffic.

The motion carried unanimously.

**Motion:** A motion was made by Martha Shoun to adjourn. The motion was seconded by Jaye Poelman and passed unanimously.

The meeting adjourned at 6:19 p.m.

This certifies that the minutes of March 14, 2007 are a true and correct copy as approved by the Appeal Authority on November 14, 2007.

Signed: \_\_\_\_\_  
Jeffery R Leishman - Secretary